IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 113 OF 2007
IN
CRIMINAL APPEAL NO. 1155 OF 2005

Shivaji Satuppa Gavade-Patil ..Applicant

Vs.

The State of Maharashtra ..Respondent

Ms. Rashmi Gagwani i/by Mr. Ganesh Gole for applicant.
Mr. K.V. Saste, APP for State.

CORAM: B.H. MARLAPALLE & R.S. MOHITE,JJ.

Date : February 06, 2007.

P.C.:

1. Heard the learned counsel for the applicant who is an under-trial prisoner as at present in the Central Jail at Kolhapur. He states that his paternal aunt Smt. Tai Narayan Gavade died on 25/1/2007 at village Inam Savarde, Taluka Chandgad, District Kolhapur and she was issueless. He states that he is the only LR and, therefore, has to attend the last rituals after her demise. He has, therefore, prayed for a temporary bail of one week from 6/2/007 to 13/2/2007.

2. By way of interim order, we direct the Superintendent, Central Prison at Kolhapur to allow the applicant to visit village Inam Savarde, Taluka Chandgad, District Kolhapur for two days under custody i.e. on 7th and 8th February, 2007.

. This application be listed for further orders on 12/2/2007.

3. The learned APP to communicate this order forthwith to the Superintendent, Central Prison at Kolhapur and an authenticated copy be made available to him forthwith.

Second Half (at 3 p.m.)

4. Interim order was passed on this application in the first half today, thereby directing the Superintendent of the Central Prison at Kolhapur to allow the applicant to visit village Inam Savarde, Taluka Chandgad, Dist. Kolhapur under custody on 7th

and 8th February, 2007 so as to attend the last rituals on the demise of his paternal aunt Smt. Tai Narayan Gavade.

5. The learned APP has received information on fax from the concerned police station and it is revealed that the deceased has an adopted son by name Laxman Narayan Gavade and he had performed the last rites when she died on 25/1/2007. A copy of the said letter dated 6/2/2007 addressed to Public Prosecutor, High Court, Mumbai by Chandgad Police Station, Dist. Kolhapur is taken on record. In addition, the applicant has one brother by name Maruti who is residing in the very same village and, therefore, the presence of the applicant in the rituals on 7th or 8th February, 2007 is not necessary.

6. Hence, the order passed by us in the first half is hereby recalled and the application is rejected.

(R.S. Mohite, J.) **(B.H. Marlapalle,J.)**